

APPEAL NO. 021256
FILED JULY 1, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 9, 2002. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first or second quarters. The claimant appeals the SIBs determinations, essentially on sufficiency grounds. The respondent (carrier) contends in its response that the hearing officer's determinations are supported by sufficient evidence.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). Rule 130.102(b) provides that an injured employee who has an impairment rating of 15% or greater, and who has not commuted any impairment income benefits, is eligible to receive SIBs if, during the qualifying period, the employee: (1) has earned less than 80% of the employee's average weekly wage as a direct result of the impairment from the compensable injury; and (2) has made a good faith effort to obtain employment commensurate with the employee's ability to work.

The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the relevant qualifying periods for the first and second quarters. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer found that the narrative reports in evidence did not specifically explain how the injury caused a total inability to work. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Applying this standard of review, we find sufficient evidence to support the hearing officer's findings.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **THE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER
1999 BRYAN STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge